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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-301**

13 **SARAH ELIZABETH BROOKS**
14 **697 Owl Drive**
15 **Vacaville, California 95687**
16 **Registered Nurse License No. 507462**

A C C U S A T I O N

Respondent.

17 Complainant alleges:

PARTIES

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about December 30, 1994, the Board of Registered Nursing issued Registered
22 Nurse License Number 507462 to Sarah Elizabeth Brooks (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 ,expire on December 31, 2010, unless renewed.

JURISDICTION

25 3. This Accusation is brought before the Board of Registered Nursing (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.
28

STATUTORY PROVISIONS

4. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

5. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

...

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7. Penal Code section 471.5 states:

"Any person who alters or modifies the medical record of any person, with a fraudulent intent, or who, with fraudulent intent, creates any false medical record, is guilty of a misdemeanor.

1 DRUGS

2 8. Oxycodone is a Schedule II controlled substance, as designated by Health and Safety
3 Code section 11055(b)(1)(N), and a dangerous drug pursuant to Business and Professions Code
4 section 4022 in that it can be lawfully dispensed only by prescription. Oxycodone is an opiate
5 analgesic with multiple actions qualitatively similar to those of morphine.

6 FIRST CAUSE FOR DISCIPLINE

7 (General Unprofessional Conduct)

8 9. Respondent is subject to disciplinary action under section 2761(a) (general
9 unprofessional conduct) in that she engaged in unprofessional conduct by altering her own
10 medical record and using her position as an RN to access doctors for the purpose of obtaining
11 prescriptions and refills for pain medications. The circumstances are as follows:

12 10. On or about January 7, 1991, respondent was hired as a Licensed Vocational Nurse at
13 Kaiser Permanente Vallejo Medical Center Perinatal Unit. She was promoted to an RN Staff
14 Nurse II, in August, 1997. In August 1997, she sought and received a transfer to the Kaiser
15 Fairfield Medical Offices where she worked until she was terminated on October 15, 2008.

16 11. On or about October 15, 2008, as a result of an internal investigation, respondent was
17 terminated from her employment with Kaiser. Respondent's termination letter stated that she
18 accessed her personal medical record on July 2, 2008, and altered her patient record using
19 Kaiser's electronic assets, in violation of Kaiser's Principles of Responsibility and Code of
20 Conduct.

21 12. Respondent's primary care physician, Dr. Cassandra Whitmore, placed a "drug
22 seeking behavior" alert in respondent's electronic medical record along with a notation that she
23 only be prescribed pain medications from her primary care physician. Dr. Whitmore later learned
24 that the alert was removed from the electronic medical record and, because it had been removed,
25 respondent had received refills by two other Kaiser doctors, neither of whom were her primary
26 care physician.

27 13. A Kaiser Permanente internal investigation was initiated to determine who deleted the
28 alert. Respondent was interviewed as part of the investigation and initially denied changing any

1 information in her electronic medical record, but stated that she had accessed her electronic
2 medical record to look at it. However, the information and technology staff from Kaiser
3 determined that the information was removed from respondent's chart using respondent's user ID
4 and password, and that respondent had maintained control of her user ID and password during the
5 time the alert was removed.

6 14. During an interview with a Division of Investigation investigator, on May 18, 2009,
7 respondent admitted to removing the alert stating that she "wanted to do it," "[did] not think [she]
8 did anything wrong," and "was correcting and updating [her] record."

9 15. During that same interview, the investigator asked respondent how many doctors she
10 had seen over the last 14 months. Respondent said "ten" but later was surprised to learn that it
11 had actually been 23. She said that she "kept switching doctors until she found someone that she
12 was comfortable with." She acknowledged that she is dependent on Oxycodone and is working
13 with a pain management doctor to "wean herself off of" it.

14 16. The medical records reviewed by the Division of Investigation investigator for the
15 period between January 2008 through July 2009 indicate that respondent had been seen by
16 multiple providers for a variety of ailments, and that respondent used her position as an RN to
17 manipulate the normal patient-doctor relationship. Other documents, including e-mails written by
18 doctors within the medical offices where respondent worked, indicate that respondent was
19 soliciting medical advice and refills for medications without making an appointment. On more
20 than one occasion, respondent wrote to her doctors asking for early refills for Oxycodone or
21 Ambien and, at times, explained that she had changed the dosing of her medications and had
22 asked for higher quantities or early refills, as she was not taking the medications as prescribed.

23 SECOND CAUSE FOR DISCIPLINE

24 (Incompetence and/or Gross Negligence)

25 17. Paragraphs 9-16 are incorporated by reference as though fully set forth.

26 18. Respondent's conduct, in altering her own medical record and using her position as
27 an RN to access doctors for the purpose of obtaining prescriptions and refills for pain
28 medications, as alleged in paragraphs 9-16 above, constitutes unprofessional conduct within the

1 meaning of Code section 2761(a)(1) (incompetence and or gross negligence), and provides
2 grounds for disciplinary action under Code section 2761(a).

3 THIRD CAUSE FOR DISCIPLINE

4 (Obtain Controlled Substance In Violation of Law)

5 19. Paragraphs 9-16 are incorporated by reference as though fully set forth.

6 20. Respondent's conduct, in altering her own medical record to delete reference to her
7 "drug seeking behavior" for the purpose of obtaining prescriptions and refills for pain
8 medications, as alleged in paragraphs 9-16 above, constitutes unprofessional conduct within the
9 meaning of Code section 2762(a) (unlawful obtaining of controlled substances or dangerous
10 drugs), and provides grounds for disciplinary action under Code section 2761(a).

11 FOURTH CAUSE FOR DISCIPLINE

12 (Falsify or Make Grossly Incorrect Entries In Medical Record)

13 21. Paragraphs 9-16 are incorporated by reference as though fully set forth.

14 22. Respondent's conduct, in altering her own medical record to delete reference to her
15 "drug seeking behavior" for the purpose of obtaining prescriptions and refills for pain
16 medications, as alleged in paragraphs 9-16 above, constitutes unprofessional conduct within the
17 meaning of Code section 2762(e) (falsifying patient record pertaining to controlled substances or
18 dangerous drugs), and provides grounds for disciplinary action under Code section 2761(a).

19 FIFTH CAUSE FOR DISCIPLINE

20 (Penal Code section 471.5-Alter Medical Record)

21 23. Paragraphs 9-16 are incorporated by reference as though fully set forth.

22 24. Respondent's conduct, in altering her own medical record, as alleged in paragraphs 9-
23 16 above, constitutes violation of Penal Code section 471.5 and provides grounds for disciplinary
24 action under Code section 2761(a).

25 MATTERS IN AGGRAVATION OF PENALTY

26 25. Complainant alleges, by way of aggravation of any penalty to be imposed in this
27 matter, that on or about January 20, 2009, respondent was terminated from the Board's Diversion
28

1 Program as a public safety risk, after enrolling in the Program on December 17, 2008, and then
2 refusing to enter an in-patient medical detox and treatment program.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 507462 issued to Sarah
7 Elizabeth Brooks.

8 2. Ordering Sarah Elizabeth Brooks to pay the Board of Registered Nursing the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 12/17/09 Louise R. Bailey
13 LOUISE R. BAILEY, M.ED., RN
14 Interim Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant

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